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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

MICHELLE MCKINNON,

Plaintiff and Appellant,

v.

PATRICIA DAVID-PORTWOOD, as
Trustee, etc.,

Defendant and Respondent.

E068659

(Super.Ct.No. RIP1300921)

OPINION

APPEAL from the Superior Court of Riverside County. Thomas H. Cahraman,
Judge. Dismissed.

Michelle McKinnon, in pro. per., for Plaintiff and Appellant.

Dennis M. Sandoval, Pamela Y. Valencia and David S. Hamilton for Defendant
and Respondent.

Plaintiff and appellant Michelle McKinnon, acting in propria persona, appeals
from an order denying her petition to remove the trustee of the Daniel Robert David
Bypass Trust (trust), defendant and respondent Patricia David-Portwood (Portwood).

On May 2, 2017, McKinnon apparently filed a petition to remove Portwood as the trustee for failing to comply with the trust and a settlement agreement. The petition and accompanying trial briefs are not part of the record. The trial court denied the petition. McKinnon filed a timely notice of appeal.

McKinnon's opening brief is entirely deficient and warrants dismissal of the appeal. Portwood agrees that McKinnon has waived her claims by failing to properly raise any issues in her brief.

The trial court's judgment is presumed to be correct on appeal, and it is the burden of the party challenging it to affirmatively demonstrate error. (*Bianco v. California Highway Patrol* (1994) 24 Cal.App.4th 1113, 1125.) The "failure of an appellant in a civil action to articulate any pertinent or intelligible legal argument in an opening brief may, in the discretion of the court, be deemed an abandonment of the appeal justifying dismissal." (*Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1119.) Moreover, a failure to present arguments without specific citation to the record on appeal and citation to legal authority can result in forfeiture of any contention that could have been raised on appeal. (Cal. Rules of Court, rule 8.204(a)(1)(B) & (C); *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246.)

Here, McKinnon's table of authorities is blank—except for the word, "None"—as she fails to cite to any legal authority in the appellant's opening brief. In McKinnon's statement of facts, she provides one citation to the clerk's transcript, which is to the register of actions in the case information sheet. She refers to only two citations in the reporter's transcript. McKinnon repeatedly refers to a "Settlement Agreement" but

provides no citation to the record as to where the settlement agreement appears in the record. McKinnon also repeatedly refers to the trust but again does not indicate where in the record that this document appears. McKinnon provides no factual or legal support for any of the claims she may be raising in the appellant's opening brief, which alone supports dismissal of the appeal. (*Nwosu v. Uba, supra*, 122 Cal.App.4th at p. 1246.)

Moreover, it is impossible to determine the claims she is raising in the appeal. After simply citing to the trust and Settlement Agreement throughout her brief and stating that Portwood failed to fulfill her duty as the trustee by breaching these agreements, she then provides, "After the submitting of proof to the claims against the Trustee by the Petitioner, the court's ruling should be reversed to place the victor to Petitioner. The damages owed to the Bypass should be repaid with interest. Mrs. Portwood's principal annual 5% and income royalties should revoked and all principal and income should be deposited into the Wells Fargo Bypass checking and savings account to try to recoup and restore the Bypass." She wanted Portwood removed as trustee and "Timothy Parker" and "Jennifer DiGiuseepe" to manage the trust.

It is well established that "[a]n appellate court is not required to examine undeveloped claims, nor to make arguments for parties." (*Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106.) McKinnon presents no comprehensible argument supported by any legal authority. It is appropriate for this court to deem the appeal abandoned and to dismiss it. (*Berger v. Godden, supra*, 163 Cal.App.3d at p. 1120.)

We understand that appellant is representing herself on appeal. However, litigants in propria persona are treated the same as attorneys. (*Rappleyea v. Campbell* (1994) 8

Cal.4th 975, 985 [“A doctrine generally requiring or permitting exceptional treatment of parties who represent themselves would lead to a quagmire in the trial courts, and would be unfair to the other parties to litigation”]; (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543 [“Pro. per. litigants are held to the same standards as attorneys”].) Despite McKinnon being a self-represented litigant, she must follow the rules of appellate procedure and present intelligible argument supported by the record and applicable legal authority. (*Nwosu v. Abu, supra*, 122 Cal.App.4th at pp. 1246-1247.)

McKinnon’s appellant’s opening brief does not properly cite to the record nor provide any legal authority, and she does not properly develop her claims. As such, we will not consider them and treat them as forfeited.

DISPOSITION

The appeal is dismissed. Both parties are to pay their own costs on appeal.

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MILLER

J.

We concur:

RAMIREZ

P. J.

SLOUGH

J.